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SUBJECT: UKRAINE: BILATERAL COORDINATION GROUP TALKS: TRADE
ISSUES

Sensitive but Unclassified; Not for Internet Distribution.

1. (SBU) Summary: In Bilateral Coordination Group (BCG) talks January 24, EB A/S E. Anthony Wayne said restoration of Ukraine's access to the Generalized System of Preferences (GSP) was due to the GOU's good work on amending the optical disc law and implementing the new legislation. GOU officials responded that this decision inspired them to continue to improve protection of intellectual property rights (IPR) in Ukraine. A/S Wayne explained the Department of Commerce (DOC) decision to extend the market economy status (MES) review until February 16 was an excellent opportunity for the GOU to highlight positive developments of the last few months in Ukraine. GOU officials said they were surprised by the delayed decision but hoped MES recognition would stimulate further reform in Ukraine. The Director of the Ministry of Economy's WTO Cooperation Department said GOU and USG negotiators were close to signing a WTO bilateral market access agreement; the GOU would have to compromise with business to push the remaining legislation necessary for multilateral agreement through parliament. A/S Wayne said he hoped to reach bilateral agreement in the next few weeks and highlighted key outstanding issues. A/S Wayne said the USG supported lifting Jackson-Vanik for Ukraine and advised the GOU to distance itself from anti-Semitic organizations. An MFA official said President Yushchenko condemned anti-Semitic or xenophobic behavior. End Summary.

2. (U) A U.S. delegation headed by EUR A/S Fried and including EB A/S Wayne, ASD/ISP Flory, NSC Director Wilson and Ambassador participated January 24 in Bilateral Coordination Group (BCG) discussions with a Ukrainian delegation headed by DFM Volodymyr Khandohiy. Discussions reported below covered bilateral trade issues; other topics reported septels.

IPR: Restoration of GSP Trade Benefits Very Welcome

3. (SBU) A/S Wayne opened with the comment that he was very pleased to get the decision from the U.S. Trade Representative (USTR) regarding restoration of Ukraine's access to the GSP in time for the BCG meeting. The decision was due to the GOU's good work on amending the optical disc law and implementing the new legislation. Protection of IPR was important for modern economies. Improvements in Ukraine meant the country's rating would be changed from Priority Foreign Country to Priority Watch List. A/S Wayne said he had spoken with Ukrainian officials at the Ministry of Education and Science and the Ministry of Economy, where he had noted that the planned enforcement cooperation group would be an excellent vehicle for cooperation between both governments and industry.

4. (SBU) Omelyan Sukholytki, Director of the Department of International Cooperation of the Ministry of Education and Science, expressed gratitude for the restoration of GSP eligibility and a commitment to continue to cooperate in the IP field. Volodymyr Zharov, First Deputy Chairman of the State Department of Intellectual Property, asked that A/S Wayne share Ukrainian gratitude with USTR and USG counterparts. Restoration of GSP was a great reward for all of the GOU efforts. The GOU remained committed to improving on IPR protection and was very inspired.

MES: GOU Anxious for Result

5. (SBU) A/S Wayne noted that the Department of Commerce had decided to delay a decision in its market economy status (MES) review of Ukraine for an additional 30 days in order to reopen the record and allow for additional submissions. There had been many important events since the period for submissions had closed in the summer, and it was important for the GOU to comment by January 25, since those comments would be part of DOC's evaluation. The results were now due

February 16. It was an excellent opportunity to highlight the positive developments that had occurred in the last few months in Ukraine, A/S Wayne added.

16. (SBU) Natalya Sydoruk, Deputy Director of the Anti-dumping Department, said, DOC's decision to extend the MES review was very unexpected in light of all the previous work done by both Ukraine and the United States. Reforms in Ukraine had been recognized by many sources, such as the Wall Street Journal Economic Freedom Index and Freedom House. Ukraine's market transition was quite sustainable. Russia and Kazakhstan had been recognized 3-4 years earlier as market economies, while many sources rated the economic development of Ukraine to be higher than in those countries. Sydoruk said, in any case, she hoped Ukraine's aspirations to this end would be appreciated and finally there would be technical recognition of what actually is happening in the country. DFM Khandohiy remarked that he also believed recognition of Ukraine's MES was a technical question, but hoped this recognition would stimulate further reform efforts.

Progress toward Ukraine's WTO Accession

17. (SBU) Vyacheslav Tsymbal, Director of the Ministry of Economy's WTO Cooperation Department, said that accession to the WTO was a key goal of Ukraine's foreign economic policy. The GOU had signed 42 WTO bilateral market access agreements, and only agreements with the United States, Australia and a few other countries remained outstanding. Noting that GOU and USG negotiators were close to finishing and had completed the technical aspects of the talks, Tsymbal asked about USG internal procedures for approval of the bilateral protocol.

18. (SBU) On a multilateral basis, Tsymbal explained that the process involved passing a series of laws, commenting that the U.S. Embassy had done great work in following the progress of draft legislation in the Rada. His government's attention to this process was evidence of GOU commitment to WTO accession. Parliament had passed over half of the more than 20 WTO-related bills the GOU had submitted. For the Rada to pass the remaining legislation, it would be necessary to negotiate a compromise between business and government. The GOU would also need some concessions from the WTO working party and would ask for some transition periods and other alternatives. A list of documents had to be completed, and some GOU interagency coordination also remained. The Ministry of Economy was working on a package of proposals for the WTO working party and would appreciate USG comments.

19. (SBU) A/S Wayne observed that Ukraine's WTO accession involved work in three areas: bilateral, multilateral work on the working party report, and legislative progress. He congratulated the GOU on strong progress on the bilateral with the U.S., noting that many of the issues that had been outstanding when he last visited Ukraine in October 2005 had since been resolved. A/S Wayne said he hoped our two sides could reach agreement in the next few weeks. A few issues remained, including those related to insurance intermediation services, meat certificates, Avian Influenza, the period of patent protection for chemicals and pharmaceuticals, and audiovisual services. On the last issue, he noted the USG had made several proposals to reconcile our interests with that of other trading partners (e.g., the EU). We hoped these would provide for agreement. USTR was awaiting responses on several of these issues.

110. (SBU) Regarding the internal USG process for approving a bilateral agreement, A/S Wayne said USTR would need to conduct consultations, but the U.S. side would need to check whether a formal procedure was required for signing and get back to the Ministry of Economy. (Note: On January 25, Embassy sent Tsymbal information received from the Department via email on the procedure, which noted that consultations with Congress were not required, but they were normally done for countries of significant commercial interest or those subject to provisions like Jackson-Vanik.) A/S Wayne asked for the GOU assessment as to whether the Rada would soon pass remaining legislation. Tsymbal replied that the GOU would keep fighting to pass priority legislation, and the last bill that had passed was a law on plant quarantine on January 12. February 7 would begin the next session of the Rada, DFM Khandohiy noted, adding that passing legislation would become more difficult closer to the March parliamentary elections.

GOU Hopes House Will Lift Jackson-Vanik

111. (SBU) A/S Wayne stressed that the Administration supported lifting Jackson-Vanik for Ukraine. The Secretary had written to Congress to urge it to lift the measure. On November 18, the Senate passed such legislation. We had been urging the House to pass a similar bill. During consultations, Congressmen noted progress on IPR and WTO membership. However, A/S Wayne wanted to flag the issue of anti-Semitic statements of private Ukrainian institutions.

Some Congressmen cited continuing instances of anti-Semitism as a reason they were hesitant to take action. A/S Wayne advised the GOU to distance itself from such organizations and do as much as possible, within the limits of democratic discourse, to discourage such statements.

112. (SBU) Volodymyr Yatsenkiivskyi, Deputy Director of the Second Territorial Directorate of the MFA (covering Europe and the Americas), said this was not a new issue in U.S.-Ukraine bilateral relations. He welcomed the Senate's decision on Jackson-Vanik and was pleased that the initiator had been Senator Lugar. Yatsenkiivskyi hoped the House would take a decision soon. He wanted to thank the U.S. for taking steps to make this possible, underlining that President Yushchenko had condemned anti-Semitic or xenophobic behavior and also distanced himself from such disgraceful statements. Khalidko of the Ministry of Education and Science (MES) said the statements of the Interregional Academy of Personnel Management (MAUP) were made by a private person (Note: MAUP Director Shchokin) from a private institution. MES had distanced itself from the organization, and had unfriendly relations with Shchokin, even though the ministry had earlier issued MAUP accreditation as a private educational institution. Khandohiy reiterated that it was President Yushchenko's and the government's policy to condemn such utterances. It was important to remember that the organization consisted of 50,000 people (the vast majority students), all of whom could not be associated with Shchokin's statements. He hoped the Ukrainian Embassy could provide a persuasive case to Congress. Ukraine was a democratic state, but such incidents reaffirmed that it must be vigilant.

113. (U) A/S Wayne cleared this cable.

114. (U) Visit Embassy Kiev's classified website:
www.state.sgov.gov/p/eur/kiev.
HERBST